

## DETAILED ACTION

### EXAMINER'S COMMENT

An Examiner's amendment was proposed to change the wording of claim 23 on December 3, 2008 (see Examiner Initiated Interview), which was not accepted by the applicant. After further discussion and reconsideration, the Examiner is persuaded that the amendment filed November 12, 2008 to claim 23 has overcome the 112 1<sup>st</sup> Paragraph rejection of new matter. The 112 1<sup>st</sup> Paragraph rejection was based on the "simultaneous closing" of a chamber at one axial end and "opening of the same chamber at the other axial end of the profile member", which is not supported by the original disclosure. The Amendment filed on November 12, 2008 recites the limitation directed to "a chamber at its maximum volume to be **simultaneously adjacent** to a disappearing chamber at one axial end of the profiled members and to an appearing chamber at the other axial end of the profiled members." The claim limitation is no longer directed towards the simultaneous opening and closing of the chamber. The current amended claim recites the limitation of "simultaneously **adjacent**", which has been construed to mean the maximum volume chamber being adjacent at one axial end to a disappearing chamber and adjacent to an appearing chamber at the other axial end at the same time (i.e. **simultaneously adjacent**). The chamber at its maximum volume that is "simultaneously adjacent" to a disappearing chamber and an appearing chamber is supported in the specification on Pages 25-26, and therefore, the 112 1<sup>st</sup> Paragraph has been withdrawn.

***Communication***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARY A. DAVIS whose telephone number is (571)272-9965. The examiner can normally be reached on Monday thru Thursday; 6:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion can be reached on (571) 272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mary A Davis/  
Examiner, Art Unit 3748